

MINUTES

BOARD OF ADJUSTMENT

TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY

Conference Meeting

March 14, 2013

The Conference Meeting of the Board of Adjustment was called to order at 7:30 PM in the Public Meeting Room.

It was confirmed that the meeting was being held in conformance with all regulations of the SUNSHINE LAW and proper notice had been given to the Courier News; also, the Agenda had been posted in Town Hall, Board Office, and supplied to the Township Clerk at least forty-eight hours prior to the meeting. The Agenda items will not necessarily be heard in the order listed and the meeting will not continue significantly past 10:30 PM.

Roll Call:

Members present were Mr. Bussiculo, Mr. Boyer, Mr. Smith, Mr. Siburn and Mr. Delia. Mr. Miller, Mr. Minkoff, Mr. Sullivan and Mrs. Granholm were absent. Mr. Daniel Bernstein, Board Attorney, was also present.

Informal Review of New Applications:

App. #3-13: Lou & Mary Mastria, 94 Briarwood Drive East, Block 803, Lot 14 (R-15 Zone)

Proposed deck on a corner lot does not conform to the principal front yard setback requirement of 50' (existing: 25.90'; proposed: 30.45'). The deck will be attached to the principal dwelling along the Ridgewood Place street front. Relief is needed from Section 6.1.1B, "Schedule of General Regulations" and Section 8.1.1B, "Expanding a nonconforming structure is prohibited."

A patio made of pavers will also be added (which will not increase impervious coverage).

Lou Mastria stated that he is proposing to add a deck on the back of his house. His home is on a corner lot with two front yards and a variance is needed for the setback. The deck will be fairly far from the street, not more than 3'2" off the ground and in keeping with the first floor of the house. No trees will be taken down and there is a shed in the backyard that conforms to setback requirements.

Discussion took place regarding the dimensions on the application and the applicant made corrections to the application.

The application was deemed complete and scheduled for hearing on March 28, 2013. The applicant was instructed to send out the required notice and to bring photographs of the property to the hearing.

App. #5-13: Brian Radano, 120 River Bend Road, Block 1006, Lot 13 (R-15 Zone)

Proposed storage room (lean-to structure), 20.5' x 8' x 9.5' high, will be attached to the house. Relief is needed from Section 6.1.1B, "Schedule of General Regulations" and Section 8.1.1B, "Nonconforming Buildings and Uses" for: 1) principal front-yard setback: required 50'; proposed lean-to structure: 49.' 2) Combined side-yard setback: required 30', existing 29.9,' proposed: 21.35.' The proposed side-yard setback where the structure is to be added will be 7.3' off the side property line. 3) Building coverage: allowed 15%, existing 14.74%, proposed 16.12%. Existing, nonconforming issues are lot area, lot width, principal front-yard setback and combined side-yard setback.

Brian Radano said he is proposing to build a storage unit that will be attached to the side of the garage. One of his neighbors has something similar and that is where he got the idea.

In response to questions from the Board, Mr. and Mrs. Radano stated that the 160 square foot storage unit will be used for kids' toys. It will be located on the driveway side of the house and will be 7'3" from the property line. They think this will look nicer than a shed and it will give them more space in the backyard since they have an odd shaped lot. The storage unit will have a poured concrete foundation.

Discussion took place and it was determined that this is an addition to the house and not a shed and a side yard setback variance is required. The Board members expressed concern that sometime in the future the storage unit could be converted into a room.

In response to further questions, Mr. Radano stated that there will be landscaping around the storage unit as a buffer. There are no plans to have electricity or plumbing and the siding will match the house.

The applicant was asked to put stakes where the addition will be located and Board members will visit and view the property.

The application was deemed complete and scheduled for hearing on March 28, 2013. The applicant was instructed to send out the required notice and to bring photographs of the property to the hearing.

Adoption of Resolutions:

App. #18-12: Jack Silverman Realty & Mortgage Co., LLC (as successor in interest to original applicant, Berkley Realty Partners 244, LLC), 240-264 Springfield Avenue, Block 801, Lots 23 & 24 (R-15 & HB2 Zones) Seeking variances and site plan approval for a children's daycare facility and multi-tenant building, both facing Springfield Avenue. Approval for a prior plan had been granted in a Resolution dated July 22, 2010.

Fred Zelley, attorney for the applicant, stated that the applicant has some issues to raise with respect to the resolution.

With respect to the lease or license for parking, they would like to make a change to the condition to provide that the applicant will come back to the Board in the event the lease or license is terminated or cannot be obtained and to include Marcello's restaurant as an alternate location for extra parking. They would also like to replace the word "neighboring" with the word "nearby".

Discussion took place and it was agreed that those changes would be made.

Mr. Zelley stated that the more significant issue raised by the applicant relates to occupancy of the retail space and the requirement that there not be a restaurant use. They believe what the Board had in mind was a fast food type of restaurant but they envision a use by a small Thai restaurant or frozen yogurt, ice cream shop – uses that would generate use of the pedestrian walkway as stated in the Master Plan and not a high volume restaurant.

Discussion took place about the Board's concerns regarding parking and traffic flow. It was noted that there were members of the public who expressed concerns and heard the testimony regarding the prohibition of restaurants. The Board members noted that this is a significant issue in view of the public comments and interest in the traffic issue and it would not be proper to take any action with regard to this issue without further public comment.

Mr. Bernstein suggested that if the applicant wants to include a restaurant use a new hearing with notice should be held. Mr. Bussiculo stated that Mr. Mistretta's input should also be obtained.

Mr. Zelley requested that the matter be put on the agenda for the March 28, 2013 hearing with notices to be sent out by the applicant. He further noted that the applicant also has questions with regard to office uses such as H&R Block and professional offices.

A representative of the applicant stated that they want the center to be successful and will not entertain tenants that would cause parking problems but need to have some options.

The applicant will send notices and prepare a presentation to the Board on these issues for the March 28, 2013 meeting of the Board.

App. #25-12: Bob & Cindy Cray, 50 Beech Avenue, Block 2301, Lot 10 (R-15 Zone)

Proposed one-story principal addition results in the Building Coverage limit being exceeded. (Building Coverage allowed: 15%; existing: 11.40%; proposed 15.75%.) Pre-existing, non-conforming items are Lot Area, Lot Width, Principal Front-yard Setback, Side-yard Setback and Combined Side Yards.

A motion was made by Mr. Delia, seconded by Mr. Smith, to adopt the above Resolution. The voice vote was unanimous with Mr. Bussiculo, Mr. Smith and Mr. Delia voting in favor.

App. #1-13: Sharon & Wilhelm Fischer, 50 Twin Falls Road, Block 4502, Lot 28 (R-20 Zone)

Proposed principal addition does not conform to front-yard setback requirements (required: 50'; existing and proposed: 40.3'). The following are pre-existing, nonconforming conditions: front-yard setback (existing house), lot width, principal side-yard setback, accessory structure (a shed with additional "lean to" roofed area abutting the shed) that does not conform to side-yard setback requirements, and existing driveway less than the required 5' off the side property line.

A motion was made by Mr. Boyer, seconded by Mr. Delia, to adopt the above Resolution. The voice vote was unanimous with Mr. Bussiculo, Mr. Boyer, Mr. Smith and Mr. Delia voting in favor.

App. #2-13: Mario LoPresti, 120 Roland Road (Murray Hill), Block 4802, Lot 11 (R-20 Zone)

Proposed project to develop the backyard with an in-ground swimming pool, paver patios, pergola, playset area, outdoor kitchen and fireplace would result in "Other Coverage" exceeding the 10% allowed. The existing shed, which does not conform to location requirements, will be relocated to a conforming location. The existing driveway is less than the required 5' off the side property line.

A motion was made by Mr. Smith, seconded by Mr. Boyer, to adopt the above Resolution. The voice vote was unanimous with Mr. Bussiculo, Mr. Boyer, Mr. Smith and Mr. Delia voting in favor.

Approval of Minutes

February 14, 2013 Conference Meeting
February 28, 2013 Regular Meeting

A motion was made by Mr. Siburn, seconded by Mr. Smith, and carried by unanimous voice vote to adopt the minutes of the February 14, 2013 Conference Meeting and the minutes of the February 28, 2013 Regular Meeting as presented.

Adjournment:

A motion was made by Mr. Delia, seconded by Mr. Siburn, to adjourn the meeting. The voice vote was unanimous and the meeting was adjourned at 9:10 PM.

Regina Giardina, Secretary Pro Tem